

# Union Calendar No. 264

105TH CONGRESS  
2D SESSION

# H. R. 3211

[Report No. 105-458]

To amend title 38, United States Code, to enact into law eligibility requirements for burial in Arlington National Cemetery, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1998

Mr. STUMP (for himself, Mr. EVANS, Mr. EVERETT, Mr. CLYBURN, Mr. QUINN, Mr. FILNER, Mr. BILIRAKIS, Mr. GUTIERREZ, Mr. COOKSEY, Ms. BROWN of Florida, Mr. HUTCHINSON, Mr. DOYLE, Mr. HAYWORTH, Mr. MASCARA, Mr. LAHOOD, Mr. PETERSON of Minnesota, Ms. CARSON, Mr. REYES, Mr. RODRIGUEZ, Mr. SOLOMON, Mr. BAKER, and Mrs. CHENOWETH) introduced the following bill; which was referred to the Committee on Veterans' Affairs

MARCH 24, 1998

Additional sponsors: Mr. BACHUS, Mr. PASCRELL, Mr. OLVER, Mr. CAMPBELL, Mr. TIERNEY, Mr. LoBIONDO, Mr. STRICKLAND, Mr. LIVINGSTON, Mr. MORAN of Kansas, Mr. DAN SCHAEFER of Colorado, Mr. DIAZ-BALART, Mr. CALLAHAN, Mr. SESSIONS, Mr. STEARNS, Mr. JENKINS, Mr. WATTS of Oklahoma, Mr. FRANKS of New Jersey, Mr. HOLDEN, Mr. SKELTON, Mr. CUNNINGHAM, Mr. METCALF, Mr. FOSSELLA, Mr. SCARBOROUGH, Mr. BISHOP, Mr. PASTOR, Mrs. KELLY, Ms. HARMAN, Mr. GIBBONS, Mr. BARTLETT of Maryland, Mr. PORTMAN, Mr. BUNNING, Ms. DANNER, Mr. SMITH of New Jersey, Mr. WHITFIELD, Mr. BUYER, Mr. FOX of Pennsylvania, Mr. MCCOLLUM, Mrs. LINDA SMITH of Washington, Mr. DAVIS of Florida, Mr. CALVERT, Mr. SPENCE, Mr. REDMOND, Mr. PORTER, Ms. RIVERS, Mr. MCGOVERN, Mr. LANTOS, Mr. SANDLIN, Mrs. FOWLER, Mr. HANSEN, Mr. MANTON, Mr. BILBRAY, Mr. BATEMAN, Mr. BARR of Georgia, Mrs. ROUKEMA, Mr. CANADY of Florida, Mr. HILLEARY, Mr. HINCHEY, Mr. GOODE, Ms. KAPTUR, Mr. TALENT, Mr. CAMP, Mrs. EMERSON, Mr. FOLEY, Ms. FURSE, Mr. WELDON of Florida, Mr. GOODLING, Mr. CHRISTENSEN, Mr. LARGENT, Mr. ABERCROMBIE, and Mr. KLECZKA

MARCH 24, 1998

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 12, 1998]

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## A BILL

To amend title 38, United States Code, to enact into law  
eligibility requirements for burial in Arlington National  
Cemetery, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Arlington National Cem-*  
5 *etry Burial Eligibility Act”.*

6 **SEC. 2. PERSONS ELIGIBLE FOR BURIAL IN ARLINGTON NA-**  
7 **TIONAL CEMETERY.**

8 *(a) IN GENERAL.—Chapter 24 of title 38, United*  
9 *States Code, is amended by adding at the end the following*  
10 *new section:*

11 **“§ 2412. Arlington National Cemetery: persons eligible**  
12 **for burial**

13 *“(a) PRIMARY ELIGIBILITY.—The remains of the fol-*  
14 *lowing individuals may be buried in Arlington National*  
15 *Cemetery:*

1           “(1) *Any member of the Armed Forces who dies*  
2           *while on active duty.*

3           “(2) *Any retired member of the Armed Forces*  
4           *and any person who served on active duty and at the*  
5           *time of death was entitled (or but for age would have*  
6           *been entitled) to retired pay under chapter 1223 of*  
7           *title 10.*

8           “(3) *Any former member of the Armed Forces*  
9           *separated for physical disability before October 1,*  
10          *1949, who—*

11                  “(A) *served on active duty; and*

12                  “(B) *would have been eligible for retirement*  
13                  *under the provisions of section 1201 of title 10*  
14                  *(relating to retirement for disability) had that*  
15                  *section been in effect on the date of separation of*  
16                  *the member.*

17           “(4) *Any former member of the Armed Forces*  
18           *whose last active duty military service terminated*  
19           *honorably and who has been awarded one of the fol-*  
20           *lowing decorations:*

21                  “(A) *Medal of Honor.*

22                  “(B) *Distinguished Service Cross, Air Force*  
23                  *Cross, or Navy Cross.*

24                  “(C) *Distinguished Service Medal.*

25                  “(D) *Silver Star.*

1                   “(E) *Purple Heart.*

2                   “(5) *Any former prisoner of war who dies on or*  
3                   *after November 30, 1993.*

4                   “(6) *The President or any former President.*

5                   “(b) *ELIGIBILITY OF FAMILY MEMBERS.—The re-*  
6                   *main of the following individuals may be buried in Arling-*  
7                   *ton National Cemetery:*

8                   “(1) *The spouse, surviving spouse, minor child,*  
9                   *and, at the discretion of the Superintendent, unmar-*  
10                  *ried adult child of a person listed in subsection (a),*  
11                  *but only if buried in the same gravesite as that per-*  
12                  *son.*

13                  “(2)(A) *The spouse, minor child, and, at the dis-*  
14                  *cretion of the Superintendent, unmarried adult child*  
15                  *of a member of the Armed Forces on active duty if*  
16                  *such spouse, minor child, or unmarried adult child*  
17                  *dies while such member is on active duty.*

18                  “(B) *The individual whose spouse, minor child,*  
19                  *and unmarried adult child is eligible under subpara-*  
20                  *graph (A), but only if buried in the same gravesite*  
21                  *as the spouse, minor child, or unmarried adult child.*

22                  “(3) *The parents of a minor child or unmarried*  
23                  *adult child whose remains, based on the eligibility of*  
24                  *a parent, are already buried in Arlington National*

1 Cemetery, but only if buried in the same gravesite as  
2 that minor child or unmarried adult child.

3 “(4)(A) Subject to subparagraph (B), the surviv-  
4 ing spouse, minor child, and, at the discretion of the  
5 Superintendent, unmarried adult child of a member  
6 of the Armed Forces who was lost, buried at sea, or  
7 officially determined to be permanently absent in a  
8 status of missing or missing in action.

9 “(B) A person is not eligible under subpara-  
10 graph (A) if a memorial to honor the memory of the  
11 member is placed in a cemetery in the national ceme-  
12 tery system, unless the memorial is removed. A memo-  
13 rial removed under this subparagraph may be placed,  
14 at the discretion of the Superintendent, in Arlington  
15 National Cemetery.

16 “(5) The surviving spouse, minor child, and, at  
17 the discretion of the Superintendent, unmarried adult  
18 child of a member of the Armed Forces buried in a  
19 cemetery under the jurisdiction of the American Bat-  
20 tle Monuments Commission.

21 “(c) SPOUSES.—For purposes of subsection (b)(1), a  
22 surviving spouse of a person whose remains are buried in  
23 Arlington National Cemetery by reason of eligibility under  
24 subsection (a), who has remarried is eligible for burial in

1 *the same gravesite of that person. The spouse of the surviv-*  
 2 *ing spouse is not eligible for burial in such gravesite.*

3       “(d) *DISABLED ADULT UNMARRIED CHILDREN.—In*  
 4 *the case of an unmarried adult child who is incapable of*  
 5 *self-support up to the time of death because of a physical*  
 6 *or mental condition, the child may be buried under sub-*  
 7 *section (b) without requirement for approval by the Super-*  
 8 *intendent under that subsection if the burial is in the same*  
 9 *gravesite as the gravesite in which the parent, who is eligi-*  
 10 *ble for burial under subsection (a), has been or will be bur-*  
 11 *ied.*

12       “(e) *FAMILY MEMBERS OF PERSONS BURIED IN A*  
 13 *GROUP GRAVESITE.—In the case of a person eligible for*  
 14 *burial under subsection (a) who is buried in Arlington Na-*  
 15 *tional Cemetery as part of a group burial, the surviving*  
 16 *spouse, minor child, or unmarried adult child of the mem-*  
 17 *ber may not be buried in the group gravesite.*

18       “(f) *EXCLUSIVE AUTHORITY FOR BURIAL IN ARLING-*  
 19 *TON NATIONAL CEMETERY.—Eligibility for burial of re-*  
 20 *mains in Arlington National Cemetery prescribed under*  
 21 *this section is the exclusive eligibility for such burial.*

22       “(g) *APPLICATION FOR BURIAL.—A request for burial*  
 23 *of remains of an individual in Arlington National Ceme-*  
 24 *tery made before the death of the individual may not be*

1 *considered by the Secretary of the Army or any other re-*  
 2 *sponsible official.*

3       “(h) *REGISTER OF BURIED INDIVIDUALS.*—(1) *The*  
 4 *Secretary of the Army shall maintain a register of each in-*  
 5 *dividual buried in Arlington National Cemetery and shall*  
 6 *make such register available to the public.*

7       “(2) *With respect to each such individual buried on*  
 8 *or after January 1, 1998, the register shall include a brief*  
 9 *description of the basis of eligibility of the individual for*  
 10 *burial in Arlington National Cemetery.*

11       “(i) *DEFINITIONS.*—*For purposes of this section:*

12               “(1) *The term ‘retired member of the Armed*  
 13 *Forces’ means—*

14                       “(A) *any member of the Armed Forces on a*  
 15 *retired list who served on active duty and who*  
 16 *is entitled to retired pay;*

17                       “(B) *any member of the Fleet Reserve or*  
 18 *Fleet Marine Corps Reserve who served on active*  
 19 *duty and who is entitled to retainer pay; and*

20                       “(C) *any member of a reserve component of*  
 21 *the Armed Forces who has served on active duty*  
 22 *and who has received notice from the Secretary*  
 23 *concerned under section 12731(d) of title 10, of*  
 24 *eligibility for retired pay under chapter 1223 of*  
 25 *title 10.*

1           “(2) *The term ‘former member of the Armed*  
2           *Forces’ includes a person whose service is considered*  
3           *active duty service pursuant to a determination of the*  
4           *Secretary of Defense under section 401 of Public Law*  
5           *95–202 (38 U.S.C. 106 note).*

6           “(3) *The term ‘Superintendent’ means the Su-*  
7           *perintendent of Arlington National Cemetery.’.*

8           (b) *PUBLICATION OF UPDATED PAMPHLET.*—Not later  
9           than 180 days after the date of the enactment of this Act,  
10          the Secretary of the Army shall publish an updated pam-  
11          phlet describing eligibility for burial in Arlington National  
12          Cemetery. The pamphlet shall reflect the provisions of sec-  
13          tion 2412 of title 38, United States Code, as added by sub-  
14          section (a).

15          (c) *CLERICAL AMENDMENT.*—The table of sections at  
16          the beginning of chapter 24 of title 38, United States Code,  
17          is amended by adding at the end the following new item:

          “2412. Arlington National Cemetery: persons eligible for burial.”.

18          (d) *TECHNICAL AMENDMENTS.*—Section 2402(7) of  
19          title 38, United States Code, is amended—

20                 (1) by inserting “(or but for age would have been  
21                 entitled)” after “was entitled”;

22                 (2) by striking out “chapter 67” and inserting  
23                 in lieu thereof “chapter 1223”; and



1           (3) by striking out “or would have been entitled  
2           to” and all that follows and inserting in lieu thereof  
3           a period.

4           (e) *EFFECTIVE DATE*.—Section 2412 of title 38,  
5           United States Code, as added by subsection (a), shall apply  
6           with respect to individuals dying on or after the date of  
7           the enactment of this Act.

8           **SEC. 3. PERSONS ELIGIBLE FOR PLACEMENT IN THE COL-**  
9                               **UMBARIUM IN ARLINGTON NATIONAL CEME-**  
10                              **TERY.**

11          (a) *IN GENERAL*.—Chapter 24 of title 38, United  
12          States Code, is amended by adding after section 2412, as  
13          added by section 2(a) of this Act, the following new section:

14          **“§2413. Arlington National Cemetery: persons eligible**  
15                               **for placement in columbarium**

16          “(a) *ELIGIBILITY*.—The cremated remains of the fol-  
17          lowing individuals may be placed in the columbarium in  
18          Arlington National Cemetery:

19               “(1) A person eligible for burial in Arlington  
20          National Cemetery under section 2412 of this title.

21               “(2)(A) A veteran whose last period of active  
22          duty service (other than active duty for training)  
23          ended honorably.

24               “(B) The spouse, surviving spouse, minor child,  
25          and, at the discretion of the Superintendent of Arling-

1        *ton National Cemetery, unmarried adult child of such*  
 2        *a veteran.*

3        “(b) *SPOUSE*.—Section 2412(c) of this title shall apply  
 4        *to a spouse under this section in the same manner as it*  
 5        *applies to a spouse under section 2412.”.*

6        (b) *CLERICAL AMENDMENT*.—The table of sections at  
 7        the beginning of chapter 24 of title 38, United States Code,  
 8        is amended by adding after section 2412, as added by sec-  
 9        tion 2(c) of this Act, the following new item:

*“2413. Arlington National Cemetery: persons eligible for placement in columbarium.”.*

10        (c) *EFFECTIVE DATE*.—Section 2413 of title 38,  
 11        United States Code, as added by subsection (a), shall apply  
 12        with respect to individuals dying on or after the date of  
 13        the enactment of this Act.

14        **SEC. 4. MONUMENTS IN ARLINGTON NATIONAL CEMETERY.**

15        (a) *IN GENERAL*.—Chapter 24 of title 38, United  
 16        States Code, is amended by adding after section 2413, as  
 17        added by section 3(a) of this Act, the following new section:

18        **“§2414. Arlington National Cemetery: authorized**  
 19        **headstones, markers, and monuments**

20        “(a) *GRAVESITE MARKERS PROVIDED BY THE SEC-*  
 21        *RETARY*.—A gravesite in Arlington National Cemetery shall  
 22        be appropriately marked in accordance with section 2404  
 23        of this title.

1       “(b) *GRAVESITE MARKERS PROVIDED AT PRIVATE EX-*  
2 *PENSE.—(1) The Secretary of the Army shall prescribe reg-*  
3 *ulations for the provision of headstones or markers to mark*  
4 *a gravesite at private expense in lieu of headstones and*  
5 *markers provided by the Secretary of Veterans Affairs in*  
6 *Arlington National Cemetery.*

7       “(2) *Such regulations shall ensure that—*

8               “(A) *such headstones or markers are of simple*  
9 *design, dignified, and appropriate to a military cem-*  
10 *etery;*

11              “(B) *the person providing such headstone or*  
12 *marker provides for the future maintenance of the*  
13 *headstone or marker in the event repairs are nec-*  
14 *essary;*

15              “(C) *the Secretary of the Army shall not be lia-*  
16 *ble for maintenance of or damage to the headstone or*  
17 *marker;*

18              “(D) *such headstones or markers are aestheti-*  
19 *cally compatible with Arlington National Cemetery;*  
20 *and*

21              “(E) *such headstones or markers are permitted*  
22 *only in sections of Arlington National Cemetery au-*  
23 *thorized for such headstones or markers as of January*  
24 *1, 1947.*

1       “(c) *MONUMENTS.*—(1) *No monument (or similar*  
 2 *structure as determined by the Secretary of the Army in*  
 3 *regulations) may be placed in Arlington National Cemetery*  
 4 *except pursuant to the provisions of this subsection.*

5       “(2) *A monument may be placed in Arlington Na-*  
 6 *tional Cemetery if the monument commemorates—*

7               “(A) *the service in the Armed Forces of the indi-*  
 8 *vidual, or group of individuals, whose memory is to*  
 9 *be honored by the monument; or*

10              “(B) *a particular military event.*

11       “(3) *No monument may be placed in Arlington Na-*  
 12 *tional Cemetery until the end of the 25-year period begin-*  
 13 *ning—*

14              “(A) *in the case of commemoration of service*  
 15 *under paragraph (1)(A), on the last day of the period*  
 16 *of service so commemorated; and*

17              “(B) *in the case of commemoration of a particu-*  
 18 *lar military event under paragraph (1)(B), on the*  
 19 *last day of the period of the event.*

20       “(4) *A monument may be placed only in those sections*  
 21 *of Arlington National Cemetery designated by the Secretary*  
 22 *of the Army for such placement.”.*

23       (b) *CLERICAL AMENDMENT.*—*The table of sections at*  
 24 *the beginning of chapter 24 of title 38, United States Code,*

1 *is amended by adding after section 2413, as added by sec-*  
2 *tion 3(b) of this Act, the following new item:*

*“2414. Arlington National Cemetery: authorized headstones, markers, and monu-*  
*ments.”.*

3 *(c) EFFECTIVE DATE.—The amendment made by sub-*  
4 *section (a) shall apply with respect to headstones, markers,*  
5 *or monuments placed in Arlington National Cemetery on*  
6 *or after the date of the enactment of this Act.*

7 **SEC. 5. PUBLICATION OF REGULATIONS.**

8 *Not later than one year after the date of the enactment*  
9 *of this Act, the Secretary of the Army shall publish in the*  
10 *Federal Register any regulation proposed by the Secretary*  
11 *under this Act.*

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105TH CONGRESS  
2D Session

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[Report No. 105-458]

A BILL

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